FINDINGS OF FACT
and
CONCLUSIONS

TH 53 INTERSECTION AND PASSING LANE IMPROVEMENTS

State Project No. 6920-53

Prepared by:

Minnesota Department of Transportation

February 14, 2019

CONTENTS

FINDINGS OF FACT AND CONCLUSIONS

TH 53 INTERSECTION AND PASSING LANE IMPROVEMENTS

Located in:

St. Louis County and Koochiching County, Minnesota

1.0 STATEMENT OF ISSUE

MnDOT proposes to construct intersection safety improvements at the south and north Trunk Highway (TH) 53/TH 1 junctions in the vicinity of Cook, MN, and to add dedicated passing lanes at four 2.5 segments between Cook and International Falls, MN.

Preparation of an Environmental Assessment Worksheet (EAW) is required for this project under Minnesota Rules 4410.4300, Subpart 22.B, for construction of additional travel lanes on an existing road for more than one mile in length. The Minnesota Department of Transportation (MnDOT) is the project proposer. MnDOT is also the Responsible Governmental Unit (RGU) for review of this project, as per Minnesota Rules 4410.4300, Subpart 22.B.

MnDOT's decision in this matter shall be either a negative or a positive declaration of the need for an environmental impact statement. MnDOT must order an Environmental Impact Statement (EIS) for the project if it determines the project has the potential for significant environmental effects.

Based upon the information in the record, which comprises the Environmental Assessment Worksheet (EAW) for the proposed project, related studies referenced in the EAW, written comments received, responses to the comments, and other supporting documents included in this Findings of Fact and Conclusions document, MnDOT makes the following Findings of Fact and Conclusions:

2.0 ADMINISTRATIVE BACKGROUND

2.1 The Minnesota Department of Transportation is the Responsible Governmental Unit and project proposer for the TH 53 Intersection and Passing Lane Improvements project. A state EAW has been prepared for this project in accordance with Minnesota Rules Chapter 4410. The EAW was developed to assess the impacts of the project and other circumstances in order to determine if an Environmental Impact Statement (EIS) is indicated.

Due to federal funding involved for the proposed project, National Environmental Policy Act (NEPA) requirements have to be met as well as MEPA requirements. Accordingly, a Categorical Exclusion document is currently in process. The Categorical Exclusion process is being completed consistent with 23 CFR 771.117 and has its own review and completion process separate from MEPA requirements.

2.2 The EAW was filed with the Minnesota Environmental Quality Board (EQB) and circulated for review and comments to the required EAW distribution list. A "Notice of Availability" was published in the EQB Monitor on December 31, 2018. A press release, provided in **Appendix A** of this FOFC document, was distributed to local media outlets on December 19, 2018. These notices provided a brief description of the project and information on where copies of the EAW were available and invited the public to provide comments that would be used in determining the need for an EIS on the proposed project.

2.3 Per Minnesota Rules 4410.1600, MnDOT determined that a public hearing/meeting was not required during the formal EAW review and comment period which commenced on December 31, 2018. A general project open house had been held on December 6, 2018 at the Cook Community Center. Approximately 20 people were in attendance. Strong support for the project was expressed at this meeting, and opposition was not expressed.

2.4 The EAW was made available for public review at the following locations:

- MnDOT project website: **http://www.dot.state.mn.us/d1/projects/hwy53-1-st.-louis-koochiching/**
- Cook Public Library, 103 South River Street, Cook, MN 55723
- Orr City Hall, 4429 Highway 53, Orr, MN 55771
- International Falls Public Library, 750 Fourth Street, International Falls, MN 56649
- MnDOT District 1, 101 North Hoover Road, Virginia, MN 55792

Comments were received through January 30, 2019.

2.5 Two agency and no public citizen comments were received during the EAW comment period. All comments received during the EAW comment period were considered in determining the potential for significant environmental impacts. Comments received during the comment period and responses to substantive comments are provided in **Appendix B**.

3.0 FINDINGS OF FACT

3.1 Project Description

3.1.1 Existing Conditions

As depicted in **Appendix C, Figure 1**, the proposed project has five locations. These locations are summarized below.

Location 1 (south TH 53/TH 1 junction): TH 53 is four-lane divided with a grass median at this location. The east leg of the intersection is TH 1, and the west leg is County State Aid Highway (CSAH) 22. TH 1 and CSAH 22 are two-lane undivided highways. The junction is in a rural, primarily wooded area approximately 3.5 south-southeast of Cook. There is a large equipment yard for a general contractor in the northwest quadrant of the intersection, and a fabricating shop in the southwest quadrant. This intersection has experienced a high crash rate (critical index of 2.18 from 2015 through 2018).

Location 2 (north TH 53/TH 1 junction): TH 53 is a two-lane undivided highway at this location. The west leg of the intersection is TH 1, and the east leg is CSAH 115 (Ashawa Road). The two legs are off-set by approximately 175 feet, with the TH 1 leg connecting to TH 53 northwest of the CSAH 115 connection. Both TH 1 and CSAH 115 are two-lane undivided highways. The intersection is in a rural, primarily wooded area approximately 1.0 mile northwest of Cook. The intersection area has severe skew characteristics.

Locations 3 – 6 (passing lane locations): Each of these locations is 2.5 miles in length. They are distributed along TH 53 between Cook and International Falls in rural areas as depicted in **Appendix C, Figure 1**. TH 53 is two-lane undivided through this entire stretch of the highway. Locations 3 – 5 are within the Superior National Forest and the Kabetogama State Forest. The northwest tip of Location 6 is within the Koochiching State Forest.

3.1.2 Proposed Project

Location 1: MnDOT proposes to convert the south TH 53/TH 1 intersection to a Restricted Crossing U-Turn (R-CUT) design as depicted in **Appendix C, Figure 2**.

Location 2: MnDOT proposes to move the TH 1 and CSAH 115 junctions with TH 53 such that they are approximately 840 feet apart, and each of the minor roadway legs will "T" into TH 53 at a 90 degree angle to address skew concerns. The proposed design, relative to exiting conditions, is depicted in **Appendix C, Figure 3.**

Locations 3 – 6: All passing lane segments will be 2.5 miles in length. Existing and future typical sections are depicted in **Appendix C, Figure 4**. Key elements include:

- By using existing paved shoulders as travel lanes (after reconstruction to enhance their structural rating), convert the existing 2-lane section to 3-lane, with the center lane being the new dedicated passing lane
- Shoulder reconstruction will include adding 1' of paved width (with corresponding decrease in gravel shoulder width)
- Half of each proposed passing lane segment length will be dedicated to northbound passing, and half dedicated to southbound passing, with a transition area in between
- Perform variable depth mill and overlay to remove roadway crown from the middle of the proposed dedicated passing lane areas

3.2 Additional Information Regarding Items Discussed in the EAW Since It Was Published

Since the EA/EAW was published, the following information pertaining to the project has been updated:

3.2.1 Deferral of Location 2 Construction

Due to scheduling concerns associated with right-of-way requirements at this location, District 1 has determined that Location 2 improvements will not be part of the project to be let in 2019. However, District 1 does intend to complete these improvements as part of another adjacent roadway improvement project by 2021. This FOFC covers all six project locations.

3.2.2 Revised Wetland Impacts

As discussed in Section 3.2.1, above, District 1 will not be constructing Location 2 improvements in the project to be let in 2019; the District instead anticipates including these improvements as part of a future project by 2021. This has the effect of removing an estimated 0.43 acre of temporary wetland impacts and 1.05 acre of permanent wetland impacts from the 2019 project (combined impacts to Wetlands 1, 3, 4, 5, 6, 8, 9, 10, 11 from Table 8 of the published EAW). In addition, since the publication of the EAW, the design of Location 1 has been refined such that no impacts to Wetland 14 are anticipated. This removes approximately 0.01 acre of temporary impacts and 0.06 acre of permanent impacts from the project. Thus, the anticipated Level 1 wetland impacts associated the work to be let in 2019 are depicted in **Appendix C, Figure 5** and are summarized in Table 1, below. There are no anticipated Level 2 wetland impacts associated with the work to be let in 2019.

Table 1. Level 1 Delineation Wetlands Summary

Wetland ID	Eggers & Reed Classification	Circular 39/Cowardin Classification	Temporary Impacts	Permanent Impacts
16	Fresh (wet) Meadow/Wet Ditch	Type 2 / PEM1B	0.19 Acre	0.04 Acre
17	Fresh (wet) Meadow/Wet Ditch	Type 2 / PEM1B	0.07 Acre	0.02 Acre
Total			0.26 Acre	0.06 Acre

The anticipated wetland impacts associated with the future Location 2 work remain the same as depicted on Figure 12 and summarized in Table 8 from the published EAW (0.43 acre temporary impacts and 1.05 acre permanent impacts including the wetlands identified previously). The wetland sequencing information (Avoidance, Minimization, Mitigation) for Locations 1-6 from the published EAW remains applicable.

3.3 Findings – Determining the Potential for Significant Environmental Effects

Minnesota Rules 4410.1700 provides that an environmental impact statement shall be ordered for projects that have the potential for significant environmental effects. In deciding whether a project has the potential for significant environmental effects, the following four factors described in Minnesota Rules 4410.1700, Subp.7 shall be considered:

A. Type, extent, and reversibility of environmental effects;

B. Cumulative potential effects – the RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer.

MnDOT's key findings with respect to each of these criteria are set forth below:

3.3.1 Type, Extent, and Reversibility of Impacts

MnDOT finds that the analysis completed during the EAW process is adequate to determine whether the project has the potential for significant environmental effects. The EAW describes the type and extent of impacts anticipated to result from the proposed project. In addition to the information in the EAW, the additional information described in Section 3.2 of this Findings of Fact and Conclusions document as well as the public/agency comments received during the public comment period (see **Appendix B**) were taken into account in considering the type, extent and reversibility of project impacts. Following are the key findings regarding potential environmental impacts of the proposed project and the design features included to avoid, minimize, and mitigate these impacts:

3.3.1.1 Land Use: The project is consistent with land use in the project area based on the nature of the project and on information in relevant local planning documents. No land use-related mitigation is required.

3.3.1.2 Stormwater: Construction of the project to be let in 2019 (without Location 2) will disturb more than one acre of land and will therefore require a National Pollutant Discharge Elimination System (NPDES) Construction Stormwater General Permit and associated Stormwater Pollution Prevention Plan (SWPPP). The SWPPP will define Best Management Practices (BMPs) to be used during construction to limit the potential for stormwater impacts during construction. The 2019 project will increase impervious surface by approximately 0.16 acre. All of this increase is at Location 1, the south TH 53/TH 1 intersection. Because the area of new impervious surface is less than 1.0 acre for the 2019 project, there are no NPDES requirements for permanent stormwater controls. The future Location 2 improvements will result in a net reduction of impervious surfaces for that project area due to the removal pavements associated with the existing west and east intersection legs (see **Appendix C, Figure 3)**. All NPDES regulatory requirements associated with future Location 2 construction will be met.

3.3.1.3 Wetlands: The wetland review for this project applied a Level 3 MnDOT approach for delineation, which is a combination of Level 1 (desktop data review, onsite inspection unnecessary) and Level 2 (requires onsite inspection). Level 1 delineation procedures were used for highway median areas, and Level 2 procedures for all other locations. SEH performed the Level 2 fieldwork on October 12, 2018. As referenced in Section 3.2.2, above, anticipated wetland impacts from the project to be let in 2019 have decreased relative to the information in the published EAW. As depicted in **Figure 5** of this FOFC document, the only anticipated 2019 letting impacts are to

median/ditch wetlands. Total temporary impacts are anticipated to be 0.26 acre, and total permanent impacts are anticipated to be 0.06 acre. For unavoidable wetland impacts, replacement requirements and areas will be determined in the permitting process. For Location 1 and 3-6 impacts, as well as Location 2 impacts at a later date, all applicable regulatory and associated mitigation requirements under Section 404 of the federal Clean Waters Act and under the Minnesota Wetlands Conservation Act will be met. For Section 404 permitting, the Transportation Regional General Permit will apply.

3.3.1.4 Contaminated Properties: MnDOT's Contaminated Materials Management Team (CMMT) reviewed the proposed project regarding the potential to encounter contaminated properties. The CMMT concluded that the project has a low risk of impacting potentially contaminated sites due to the nature of the work to be performed and based on available information regarding existing conditions of the project area. However, in the unlikely event of encountering contamination, the contractor will be required to handle such material in accordance with applicable state and federal regulations, as well as with MnDOT standard specification 1717. Consistent with the Minnesota Pollution Control Agency (MPCA) comment on the published EAW (see **Appendix B** information), the State Duty Officer will be notified immediately if contamination is encountered during construction activities.

3.3.1.5 Fish, Wildlife, Plant Communities, and Sensitive Ecological Resources: For Locations 1 and 3-6, all work will be entirely within roadway right-of-way, and no tree removal will be required. At Location 2, approximately 1.02 acre of permanent right-of-way will be required, and approximately 0.05 acre of tree removal will be required. Overall, the affected existing and future right-of-way areas are generally grassed roadway ditch areas. As part of its Early Notification Memo process, MnDOT requested a review of the project by the Minnesota Department of Natural Resources (DNR). The DNR response included a Natural Heritage Information System (NHIS) review. This review found that Location 5 (passing lane Segment 3) passes through bogs and wooded wetlands (white cedar swamp) that contain rare plant species, including three special concern species: White Adder's Mouth, Lapland Buttercup, and Northern Oak Fern. The DNR response notes that there are no known locations of these species within MnDOT right-of-way. Per DNR's recommendation, construction plans Location 5 will include 'Area of Environmental Sensitivity' labeling, and associated construction BMPs will be used. The DNR response identified that the NHIS does not contain any known occurrences of northern long-eared bat roosts or hibernacula within an approximate one-mile radius of the overall proposed project. MnDOT commits to no tree removal during the northern long-eared bat pup season (June 1 through July 31) for Location 2 work. As noted above, no tree removal is anticipated for Locations 1 and 3-6.

3.3.1.6 Historic Properties: The proposed project was reviewed by MnDOT's Cultural Resources Unit (CRU) pursuant to CRU's FHWA-delegated responsibilities for

compliance with Section 306108 (previously known as Section 106 of the National Historic Preservation Act), and as per the terms of the 2015 Section 106 Programmatic Agreement between FHWA and the Minnesota State Historic Preservation Office (SHPO). This review was also conducted pursuant to MnDOT's responsibilities under the Minnesota Historic Sites Act, the Field Archaeology Act of Minnesota, and the Private Cemeteries Act. This review, which included all appropriate coordination with relevant cultural resource regulatory requirements, resulted in a determination of *no historic properties affected.* On January 28, 2019, the Minnesota State Archaeologist provided a letter dated January 28 indicating no concerns related to the project (see **Appendix B**).

3.3.1.7 Noise: A traffic noise study was conducted for the project consistent with MnDOT and FHWA requirements and guidance. The study identified a combined total of 23 receptors for the six project locations. It also modeled existing (2019), 2039 build, and 2039 no-build noise levels along the project locations. The modeled results did not exceed applicable thresholds; therefore, mitigation in the form of noise walls or other measures did not need to be evaluated.

3.3.1.8 Summary finding to these criteria: MnDOT finds that the Project, as it is proposed, does not have the potential for significant environmental effects based on the type, extent, and reversibility of impacts to the resources evaluated in the EAW and in the Findings summary above. Project impacts will be mitigated as described in the EAW and in the Findings above.

3.3.2 Cumulative Potential Effects of Related or Reasonably Foreseeable Future Projects

Per information in the Draft St. Louis County Comprehensive Plan, future development could take place in the vicinity of Location 1 (Crossroads Commercial directly adjacent to the intersection, and Industrial further to the northeast). However, the timing of any such development is not known. There are no known development or other construction projects of notable scale which would be in proximity to the passing lane portions of the project. The proposed project elements, when viewed in combination with potential future nearby development, do not represent unusual environmental protection challenges that cannot be addressed through conventional regulatory procedures and controls. Conversely, the proposed project will not limit the ability to permit adjacent projects and provide the appropriate environmental controls for those projects.

3.3.3 Extent to Which the Environmental Effects are Subject to Mitigation by Ongoing Public Regulatory Authority

3.3.3.1 The mitigation of environmental impacts will be designed and implemented in coordination with regulatory agencies (including the coordination and approvals described in Section 3.3.1 above) and will be subject to the plan approval and

permitting processes. Permits and approvals that have been obtained or may be required prior to project construction include those listed in Table 3.

3.3.3.2 The permits listed in Table 3 include general and specific requirements for mitigation of environmental effects of the project. Therefore, MnDOT finds that the environmental effects of the project are subject to mitigation by ongoing regulatory authority.

Table 3. Agency Approvals and Permits

Unit of Government	Type of Application/Permit	Status
Federal		
Federal Highway Administration	Categorical Exclusion Approval	Pending
	Section 106 determination	Completed by MnDOT CRU per agreement with FHWA
U.S. Army Corps of Engineers	Section 404 Permit	Pending
U.S. Fish and Wildlife Service	Endangered Species Act Section 7 Determination	Will be completed as part of Categorical Exclusion process
Tribal		
Tribal Historic Preservation Officer (THPO)*	Section 106 (Historic / Archeological) Consultation	Completed by MnDOT as part of Categorical Exclusion process
State		
Minnesota Department of Transportation	Minnesota Wetland Conservation Act	Pending
Minnesota Department of Natural Resources	State Endangered Species Review	Completed
Minnesota Pollution Control Agency	National Pollutant Discharge Elimination System Stormwater Permit for Construction Activities	Will be completed
Minnesota State Historic Preservation Officer (MnHPO)	Section 106 (Historic / Archeological) Consultation	Completed

*Tribal consultation: Bois Forte Band of Chippewa Indians, Grand Portage Band of Lake Superior Chippewa, Santee Sioux Nation, Turtle Mountain Band of Chippewa, Upper Sioux Community

3.3.4 Extent to Which Environmental Effects can be Anticipated and Controlled as a Result of Other Environmental Studies

3.3.4.1 MnDOT has extensive experience in roadway construction. Many similar projects have been designed and constructed throughout the area encompassed by this governmental agency. All design and construction staff are very familiar with the project area.

3.3.4.2 No problems are anticipated which the MnDOT staff have not encountered and successfully solved many times in similar projects in or near the project area. MnDOT finds that the environmental effects of the project can be anticipated and controlled as a result of the assessment of potential issues during the environmental review process and MnDOT's experience in addressing similar issues on previous projects.

4.0 CONCLUSIONS

1. The Minnesota Department of Transportation has jurisdiction in determining the need for an environmental impact statement on this project.

2. All requirements for environmental review of the proposed project have been met.

3. The EAW and the permit development processes to date related to the project have generated information which is adequate to determine whether the project has the potential for significant environmental effects.

4. Areas where potential environmental effects have been identified will be addressed during the final design of the project. Mitigation will be provided where impacts are expected to result from project construction, operation, or maintenance. Mitigative measures will be incorporated into project design, and have been or will be coordinated with state and federal agencies during the permit processes.

5. Based on the criteria in Minnesota Rules part 4410.1700, subp. 7, the project does not have the potential for significant environmental effects.

6. An Environmental Impact Statement is not required for the TH 53 Intersection and Passing Lane Improvements Project.

7. Any findings that might properly be termed conclusions and any conclusions that might properly be called findings are hereby adopted as such.

Based on the Findings of Fact and Conclusions contained herein and on the entire record:

The Minnesota Department of Transportation hereby determines that the TH 53 Intersection and Passing Lane Improvements Project will not result in significant environmental impacts, and that the project does not require the preparation of an environmental impact statement.

For Minnesota Department of Transportation

Signature and Date
MnDOT Chief Environmental Officer

APPENDIX A – EAW Comment Period Notification Press Release

News Release

December 19, 2018

Contact: Josie Olson, P.E.
MnDOT District 1 Project Manager
josie.olson@state.mn.us
218-725-2808

Highway 53/Highway 1 safety improvement project Environmental Assessment Worksheet

Duluth, Minn. – The Minnesota Department of Transportation has prepared an Environmental Assessment Worksheet for the Highway 53, Highway 1 safety improvement project and is seeking public input. A public meeting was held on December 6, 2018 at the Cook Community Center where project layouts and other exhibits were on display and MnDOT staff shared details about the project and answered questions.

As Responsible Government Unit, MnDOT has prepared an Environmental Assessment Worksheet consistent with Minnesota Environmental Policy Act Requirements. An EAW gives a full project description, evaluates the potential for social, economic and environmental impacts and addresses mitigation measures and environmental commitments. The EAW is being distributed to interested agencies for review. It is also being made available at mndot.gov/d1/projects/hwy53-1-st.-louis-koochiching and at the following locations for public review:

- Cook Public Library, 103 South River Street, Cook, MN 55723
- Orr City Hall, 4429 Highway 53, Orr, MN 55771
- International Falls Public Library, 750 Fourth Street, International Falls, MN 56649
- MnDOT District 1, 101 North Hoover Road, Virginia, MN 55792

NOTICE IS BEING GIVEN that a 30-day public comment period for the EAW will begin December 31, 2018 and will extend through January 30, 2019. Please submit written comments by January 30, 2019 to:

Josie Olson, P.E.
Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811
josie.olson@state.mn.us

- -more--

HWY 53/Hwy 1 EAW

The project will improve safety and mobility on Highway 53 by constructing the following improvements:

- Intersection safety improvements at the Highway 53/Highway 1 junction, approximately 3.5 miles south of Cook, Minnesota
- Intersection safety improvements at the junction of Highway 53/Highway 1 approximately one mile northwest of Cook, Minnesota
- Four 2.5-mile-long passing lanes located between Cook and International Falls, Minnesota

Approximately 1.02 acres of right-of-way will be required for the north Highway 53/Highway 1 junction improvements. The passing lanes will be constructed entirely within MnDOT right-of-way and almost entirely within the existing roadway footprint. The project will not affect any private or roadway accesses.

To request an ASL or foreign language interpreter, or other reasonable accommodation, call 651-366-4720 or 1-800-657-3774 (Greater Minnesota), 711 or 1-800-627-3529 (Minnesota Relay). You may also send an email to ADArequest.dot@state.mn.us. Please request at least one week in advance, if possible.

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www.mndot.gov

APPENDIX B - EAW Comments and Responses

The EAW for the TH 53 Intersection and Passing Lane Improvement Project was distributed on December 27, 2018 to agencies and organizations on the official distribution list, as well as additional agencies/organizations that had either requested a copy of the document, and/or that could be affected by the proposed project. The comment period for the EAW officially ran from December 31, 2018 (notice in the EQB Monitor) through the end of the business day on January 30, 2019. It was determined that a public hearing would not be required during the comment period for the project.

During the public review and comment period, MnDOT received comments on the EAW from a total of two agencies and no private individuals. Agency comments were received from:

- Office of the State Archaeologist
- Minnesota Pollution Control Agency

Consistent with state environmental review rules, substantive comments received are responded to in this appendix, as part of the Findings of Fact and Conclusions for the project record. Specifically, responses have been prepared for substantive statements pertaining to analysis conducted for and documented in the EAW, including: incorrect, incomplete or unclear information; permit requirements; content requirements. These comments and responses are included below. Please note that compiled comment responses are provided after the comment letters.

DEPARTMENT OF ADMINISTRATION
STATE ARCHAEOLOGIST

January 28, 2019

Josie Olson, P.E.
Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811
josie.olson@state.mn.us

RE: S.P. 6920-53, TH 53 Intersection and Passing Lane Improvements Project EAW

Josie Olson:

I appreciate being given the opportunity to comment on the above listed project. I would like to revise my letter dated January 22, 2019, subsequent to receiving further information from the Minnesota Department of Transportation. In 2010, Trefoil Cultural and Environmental Heritage conducted an archaeological survey that included the current project areas. Given the negative findings of the 2010 survey, I have no concerns related to the TH 53 Intersection and Passing Lane Improvements Project.

Please contact me if you have any questions or concerns.

Sincerely,

Amanda Gronhovd
State Archaeologist
Fort Snelling History Center
St. Paul, MN 55111
Amanda.Gronhovd@State.MN.US
612-725-2411

MINNESOTA POLLUTION CONTROL AGENCY

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300

800-657-3864 | Use your preferred relay service | info.pca@state.mn.us | Equal Opportunity Employer

January 29, 2019

Josie Olson P.E.
Project Manager
MnDOT District 1
1123 Mesaba Avenue
Duluth, MN 55811

Re: Trunk Highway 53 Intersection and Passing Lane Improvement Environmental Assessment Worksheet

Dear Josie Olson:

Thank you for the opportunity to review and comment on the Environmental Assessment Worksheet (EAW) for the Trunk Highway 53 Intersection and Passing Lane Improvement project (Project) in St. Louis and Koochiching Counties, Minnesota. The Project consists of intersection improvements at various locations along Highway 53 between the cities of Cook and International Falls. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility or other interests, the MPCA staff has the following comments for your consideration.

Permits and Approvals (Item 8)
The US Army Corps of Engineers (USACE) Wetland Conservation Act (WCA) Section 404 Permit and MPCA 401 Certification are included in Table 5 of this section. Please be aware that if a USACE Section 404 Individual Permit is required for any project activity, then an MPCA CWA Section 401 Water Quality Certification, with antidegredation assessment, must also be obtained as part of the permitting process. Please see the attached form. Note, the form is not required but the information in the form is.

Contamination/Hazardous Materials/Wastes (Item 12)
Please note that if contamination is encountered during construction activities, it must be reported immediately to the State Duty Officer at 651-649-5451 or 800-422-0798.

We appreciate the opportunity to review this Project. Please provide your specific responses to our comments and notice of decision on the need for an Environmental Impact Statement. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this EAW, please contact me by email at Karen.kromar@state.mn.us or by telephone at 651-757-2508.

Sincerely,

Karen Kromar

Karen Kromar
Project Manager
Environmental Review Unit
Resource Management and Assistance Division

KK:bt

cc: Dan Card, MPCA, St. Paul
William Wilde, MPCA, St. Paul

Minnesota Pollution Control Agency (MPCA) Antidegradation Assessment for Section 401 Water Quality Certification Applicants

7.18.17

In addition to completing the Joint Application Form for Activities Affecting Water Resources in Minnesota, applicants whose proposed projects may require an MPCA Individual 401 Water Quality Certification for work in aquatic resources must also provide the information requested below. This will facilitate the MPCA's review of the proposed project for compliance with the antidegradation water quality standards (Minn. R. 7050.0250 to 7050.0335). Section 401 of the Clean Water Act requires any applicant for a federal license or permit to conduct an activity that may result in a discharge to waters of the United States to obtain certification from the state in which the discharge originates to ensure compliance with state water quality standards. The antidegradation assessment is not required for all projects; if you know that your project will qualify for a U.S. Army Corps of Engineers 404 General Permit or Letter of Permission (LOP), you do not need to fill out this form. If the information requested below is already provided in your Joint Permit Application (JPA), please indicate where.

Applicant/Project Name:
Date:

Environmental Assessment Worksheet (EAW)/Environmental Impact Statement (EIS)
Identify whether an EAW or EIS was prepared (or will be required) for this project, and include the EAW/EIS process completion date.

Analysis of Non-Preferred Alternatives That Avoid and Minimize Degradation
Describe prudent and feasible alternatives that would minimize degradation and avoid or minimize surface water impacts (such as wetlands, lakes, streams, etc.). An analysis of each alternative must include a description of how impacts to surface waters are avoided and/or minimized, and include information on any design considerations and constraints, expected performance, construction, operation, and maintenance costs, and reliability for each alternative.

Preferred Alternative
Provide a description of and justification for the preferred alternative, and verify that the preferred alternative is the least degrading prudent and feasible alternative for surface water. Note: Information in Attachment C of the Joint Application Form for Activities Affecting Water Resources in Minnesota (Application) may be used to help determine if the preferred alternative, relative to other available prudent and feasible alternatives, is appropriate.

Beneficial Uses
Describe the current existing beneficial uses of the surface waters impacted by the project and how the beneficial uses will be protected during and after the project. Review Minnesota Rules 7050. 0410-0430 for the classification that fits the existing beneficial uses of the waters impacted by your project. https://www.revisor.mn.gov/rules/?id=7050

Indirect Impacts
Where partial alteration of a surface water will occur, describe the potential indirect impacts to the remaining surface water, and the potential impact to nearby wetlands, stream, lakes, etc. When the entire function/acreage of a surface

water is lost, describe the impacts to nearby wetlands, streams, lakes, etc. Indirect impacts can include changes in hydrology, aquatic species health or population, changes in vegetation or macroinvertebrate (bug) populations, etc.

Loading and Degradation to Surface Waters

Describe any anticipated net increases in loading and other causes of degradation expected in surface waters that are not directly filled or dredged when your proposed project preferred alternative is fully implemented.

Water Quality Comparison Before and After Project

Compare and describe the existing water quality at the project site with the anticipated water quality after the project is fully complete and operational. If the surface area of a water resource will be completely filled, this step is not necessary, but must be addressed in the Mitigation Plan below.

Comparison of Existing and Expected Economic Conditions and Social Services

Provide a comparison of existing and expected economic conditions and social services when the proposed project (preferred alternative) is fully implemented. Include description of economic gains or losses attributable to the proposed activity; contribution to social services; prevention/remediation of environmental or public health threats; trade-offs between environmental media; the value of the water resources; and other relevant environmental, social, and economic impacts of the proposed activity.

Description of the Mitigation Plan

If the applicant will mitigate the project's permanent surface water impacts via an approved wetland bank AND the mitigation is type-for-type AND located in the same major watershed (https://www.pca.state.mn.us/water/watersheds) the applicant does not need to complete this portion.

Using the project information provided above, describe how the proposed compensatory mitigation will replace existing uses and maintain the current level of water quality at the proposed project site (e.g. wetland types, replacement ratio, water monitoring data if available).

Describe how the compensatory mitigation will be maintained and the monitoring activities that will be conducted to ensure the proposed mitigation is viable. Include a timeline for reporting progress and an intervention/remediation plan to be implemented if the mitigation fails.

TH 53 Intersection and Passing Lane Improvements Project EAW
Compiled Comment Responses

Office of State Archaeologist

No response required.

Minnesota Pollution Control Agency

Comment 1 – Permits and Approvals (Item 8)

Response: The wetland impacts associated with the project are not extensive enough to warrant an Individual Permit under Section 404 of the Clean Water Act. MPCA has previously provided Section 401 Water Quality Certification for the Transportation Regional General Permit.

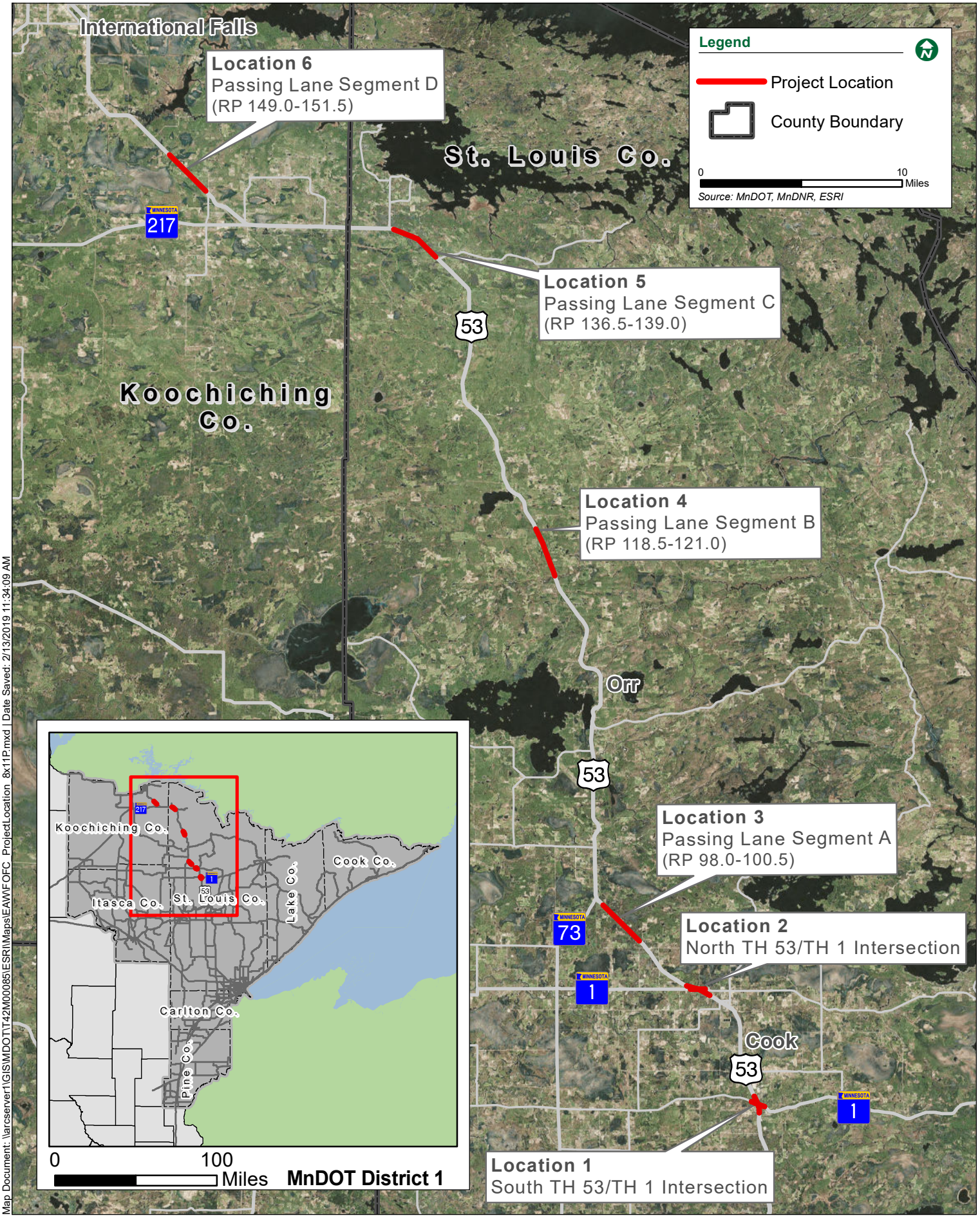
Comment 2 – Contamination/Hazardous Materials/Waste (Item 12)

Response: Thank you for providing this information. If contamination is encountered during construction activities, it will be reported immediately to the State Duty Officer. This information is provided in Section 3.3.1.4 of the Findings of Fact and Conclusions document.

APPENDIX C - Figures

Figure 1: Project Location

February 2019



Map Document: \\arcserver1\GIS\MDOT\T42M00085\ESRI\Maps\EAWFOFC_ProjectLocation_8x11P.mxd | Date Saved: 2/13/2019 11:34:09 AM

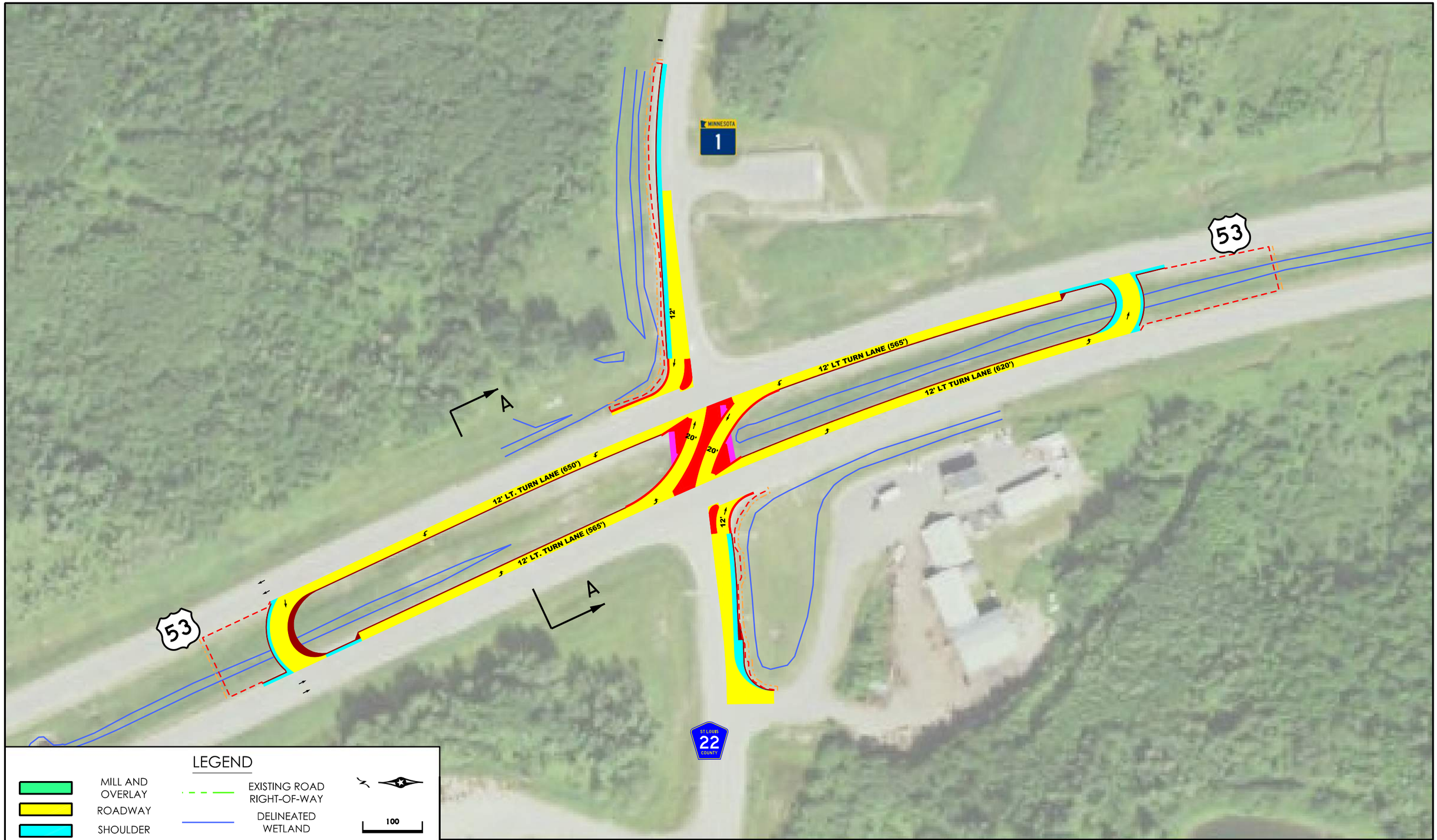


Figure 2: South TH 53/TH 1 Junction Proposed Improvements

TH 53 Intersection and Passing Lane Improvements

DEPARTMENT OF TRANSPORTATION

Permanent Right of Way
Acquisition
Approximately 0.01 Acres

100' T.O. IN ROAD

50' PERM. ORDER IN ROAD

Approximately 0.05
Acre Tree Removal

Permanent Right of Way
Acquisition
Approximately 0.07 Acres

Permanent Right of Way
Acquisition
Approximately 0.94 Acres

315

316

317

A

B

C

53

MINNESOTA 1

ST LOUIS 937 COUNTY

ST LOUIS 115 COUNTY

12' RT. TURN LANE (300')

13' LT. TURN LANE (200')

13' TWLTL (380')

LEGEND

- MILL AND OVERLAY
- ROADWAY
- SHOULDER
- CURB AND GUTTER
- EXISTING ROAD RIGHT-OF-WAY
- NEW RIGHT-OF-WAY
- DELINEATED WETLAND
- CONSTRUCTION LIMITS
- TEMP. DISTURBANCE LIMITS (for placement of stormwater BMPs, etc.)

N

100

SCALE IN FEET

Figure 3: North TH 53/TH 1 Junction Proposed Improvements

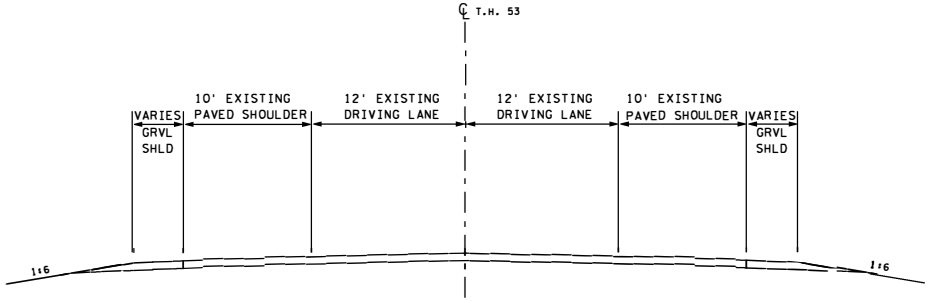
TH 53 Intersection and Passing Lane Improvements

DEPARTMENT OF TRANSPORTATION

Findings of Fact and Conclusions
Figure 4

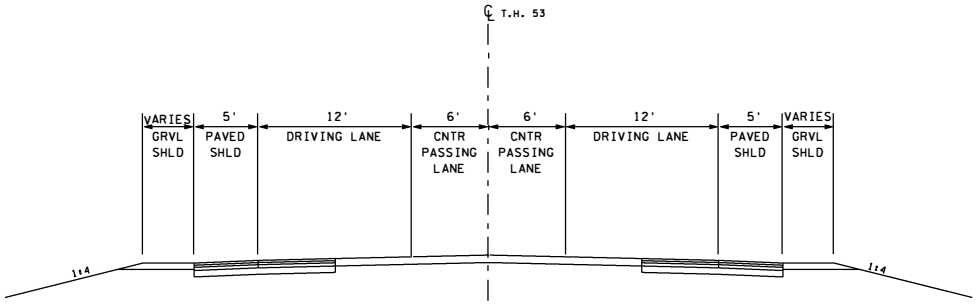
LOCATIONS 3-6
EXISTING TYPICAL SECTION - T.H. 53

R.P. 98+00.000 - 100+00.500
R.P. 118+00.500 - 121+00.000
R.P. 136+00.500 - 139+00.000
R.P. 149+00.000 - 151+00.500



LOCATIONS 3-6
PROPOSED TYPICAL SECTION - T.H. 53

R.P. 98+00.000 - 100+00.500
R.P. 118+00.500 - 121+00.000
R.P. 136+00.500 - 139+00.000
R.P. 149+00.000 - 151+00.500



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REV.	BY	DATE

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

ENGINEER SIGNATURE 1

ENGINEER

LIC. NO. 12345 DATE XX-XX-XXXX

DESIGNED	XXX
DRAWN	XXX
CHECKED	XXX

S.P. 6920-53

TH 53 ALTERNATE INTERSECTIONS AND PASSING LANES

SHEET NAME

SHEET X OF XX

morganba 12/17/2018 pdf-color.pltcfg 12:35:41 PM bmi.tbl H:\MDOT\T42M00085\CAD\MS\plans\Typicals\Environmental\cd692053_ts005.dgn

Figure 5: Location 1 - South TH 53/TH 1 Intersection Wetland Delineation and Impacts

Wetland 14
Type 7/PFO1B
Hardwood Swamp
No Impact

Wetland 14
Type 2/PEM1B
Fresh (wet) Meadow
No Impact

Heel Rd

Rice River

Wetland 17
Type 2/PEM1B
Fresh (wet) Meadow/Wet Ditch
Impact: 0.02 Acres - Permanent
0.07 Acres - Temporary

Wetland 16
Type 2/PEM1B
Fresh (wet) Meadow/Wet Ditch
Impact: 0.04 Acres - Permanent
0.19 Acres - Temporary

Wetland 15
Type 2/PEM1B
Fresh (wet) Meadow
No Impact

Wetland 13 Type 2/PEM1B
Fresh (wet) Meadow
No Impact

087

Wetland 12
Type 2/PEM1B
Fresh (wet) Meadow
No Impact

53

Legend

- Mile Markers (RP Mile)
- Delineated Wetland
- Construction Limits
- Disturbance Limits
- Wetland Type Extent
- Study Limit
- Permanent Wetland Impacts (0.06 Acres)
- Temporary Wetland Impacts (0.26 Acres)
- 100 Year Floodplain
- Public Waters

0 200 Feet

Source: MnDOT, MnDNR, St. Louis Co., ESRI